

**Introduced by Senator Florez**

February 18, 2010

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An act to add Part 14.5 (commencing with Section 32600) to Division 2 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

**LEGISLATIVE COUNSEL'S DIGEST**

SB 1210, as introduced, Florez. Taxation: sweetened beverage tax.

The Sales and Use Tax Law imposes a tax on the retail sale in this state of, and on the storage, use, or other consumption in this state of, tangible personal property based on a specified percentage of the gross receipts from the sale of, or sales price of, that property.

This bill would impose a tax upon every sweetened beverage manufacturer, concentrate manufacturer, or other person who makes the first sale in this state of a sweetened beverage or concentrate of a rate of \$0.01 per teaspoon of sugar placed into the sweetened beverage or equivalent amount of concentrate. The revenues collected from this tax would be deposited in the Childhood Obesity Fund, which the bill would create, for appropriation by the Legislature.

This bill would result in a change in state taxes for the purpose of increasing state revenues within the meaning of Section 3 of Article XIII A of the California Constitution, and thus would require for passage the approval of  $\frac{2}{3}$  of the membership of each house of the Legislature.

This bill would take effect immediately as a tax levy, but its operative date would depend on its effective date.

Vote:  $\frac{2}{3}$ . Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     SECTION 1. The Legislature finds and declares all of the  
2 following:

3     (a) Over the past 30 years, the obesity rate in the United States  
4 has more than doubled. According to statistics compiled by the  
5 United States Centers for Disease Control, in 2008, 26.7 percent  
6 of the country's adult population was considered obese (body mass  
7 index (BMI) of 30 and above).

8     (b) For children the increase in obesity has been even more  
9 dramatic, with the obesity rate among schoolage children ages 6  
10 to 11 years of age, inclusive, quadrupling over the last four decades.

11     (c) Obese children are at least twice as likely as nonobese  
12 children to become obese adults.

13     (d) The obesity epidemic has led to a dramatic increase in  
14 obesity-related health conditions, including, but not limited to,  
15 early onset of type 2 diabetes, asthma, heart disease, cancer, and  
16 strokes. These health conditions cost billions of dollars in health  
17 care costs and lost productivity. In an eight-year study, women  
18 who consumed one or more servings of sweetened beverages per  
19 day had twice the risk of developing type 2 diabetes and a 23  
20 percent higher risk of coronary heart disease than women who  
21 consumed less than one serving of sweetened beverages per month.

22     (e) Overweight and obesity account for \$147 billion in health  
23 care costs nationally, or 9 percent of all medical spending, per  
24 year.

25     (f) According to nutritional standards, sweetened beverages,  
26 including, but not limited to, soft drinks, energy drinks, sweet teas,  
27 and sports drinks offer little or no nutritional value but massive  
28 quantities of added sugars. For example, a 12-ounce serving of  
29 soda contains the equivalent of approximately 10 teaspoons of  
30 sugar; the United States Department of Agriculture recommends  
31 that a person eating a 2,200-calorie diet should consume no more  
32 than 12 teaspoons of refined sugar per day.

33     (g) Numerous studies strongly support a link between obesity  
34 and consumption of sweetened beverages, including, but not limited  
35 to, soft drinks, energy drinks, sweet teas, and sports drinks.  
36 Long-term studies have shown that women who increased their  
37 consumption of sweetened beverages for four years gained an  
38 average of 17.6 pounds, whereas women who decreased their

1 consumption of sweetened beverages for four years gained only  
2 6.2 pounds. The effect of sweetened beverage consumption in  
3 children is even more staggering. For every additional serving of  
4 sweetened beverage that a child consumes per day, the likelihood  
5 of the child becoming obese increases by 60 percent.

6 (h) Americans are drinking more sweetened beverages than ever  
7 before. From 1977 to 2002, Americans doubled the amount of  
8 sweetened beverages they consumed. Currently, children and adult  
9 Americans consume 172 and 175 calories respectively from  
10 sweetened beverages per day. Children and adolescents now  
11 consume 10 to 15 percent of their daily caloric intake from  
12 sweetened beverages.

13 (i) It is the intent of the Legislature, by adopting the Sweetened  
14 Beverage Tax Law and creating the Children's Health Promotion  
15 Fund, to diminish the human and economic costs of obesity. This  
16 act is intended to discourage excessive consumption of sweetened  
17 beverages by increasing the price of these products and by creating  
18 a dedicated revenue source for programs designed to prevent and  
19 treat childhood obesity and reduce the burden of attendant health  
20 conditions.

21 SEC. 2. Part 14.5 (commencing with Section 32600) is added  
22 to Division 2 of the Revenue and Taxation Code, to read:

23  
24 PART 14.5. SWEETENED BEVERAGE TAX LAW  
25

26 32600. This part shall be known and may be cited as the  
27 Sweetened Beverage Tax Law.

28 32601. For purposes of this part:

29 (a) "Beverage container" means any closed or sealed glass,  
30 metal, paper, plastic, or any other type of container regardless of  
31 the size or shape of the container.

32 (b) "Bottled soft drink" means a sweetened beverage contained  
33 in a beverage container.

34 (c) "Concentrate" means a sweetened beverage syrup, simple  
35 syrup, powder, or base product for mixing, compounding, or  
36 making sweetened beverages.

37 (d) "Concentrate manufacturer" means any person that  
38 manufactures concentrate for sale to distributors, dealers,  
39 consumers, or others in this state.

1 (e) “Milk” means natural liquid milk, regardless of animal source  
2 or butterfat content, natural milk concentrate, whether or not  
3 reconstituted, regardless of animal source or butterfat content, or  
4 dehydrated natural milk, whether or not reconstituted.

5 (f) “Natural fruit juice” means the original liquid resulting from  
6 the pressing of fruit, the liquid resulting from the reconstitution of  
7 natural fruit juice concentrate, or the liquid resulting from the  
8 restoration of water to dehydrated natural fruit juice.

9 (g) “Natural vegetable juice” means the original liquid resulting  
10 from the pressing of vegetables, the liquid resulting from the  
11 reconstitution of natural vegetable juice concentrate, or the liquid  
12 resulting from the restoration of water to dehydrated natural  
13 vegetable juice.

14 (h) “Nonalcoholic beverage” means all beverages not subject  
15 to tax under Part 14 (commencing with Section 32001).

16 (i) (1) “Powder” or “base product” means a mixture of  
17 ingredients in other than liquid form, used in making, mixing, or  
18 compounding sweetened beverages by mixing this product with  
19 water, ice, syrup, or simple syrup, fruits, vegetables, fruit juice,  
20 vegetable juice, or any other product suitable to make a sweetened  
21 beverage.

22 (2) “Powder” or “base product” does not include any of the  
23 following:

24 (A) Any product sold in powder or other nonliquid mixture form  
25 that is solely used in preparing coffee or tea.

26 (B) Any product sold in powder form for consumption by infants  
27 and which is commonly referred to as “infant formula.”

28 (C) Any product sold in powder form for use for weight  
29 reduction.

30 (D) Any product containing milk or milk products.

31 (E) Any frozen concentrate or freeze-dried concentrate to which  
32 only water is added to produce a sweetened beverage containing  
33 more than 10 percent natural fruit juice or more than 10 percent  
34 natural vegetable juice.

35 (F) Any powder or other base product that is sold and used for  
36 the purpose of an individual consumer mixing a sweetened  
37 beverage.

38 (j) “Sale” means the transfer of title or possession for  
39 consideration in any manner or by any means whatever.

40 (k) “Simple syrup” means a mixture of sugar and water.

(l) (1) “Sweetened beverage” means any sweetened nonalcoholic beverage sold for human consumption including, but not limited to, the following: soda water, ginger ale, root beer, all beverages commonly referred to as cola, lime, lemon, lemon-lime, and other flavored beverages, including any fruit or vegetable beverage containing 10 percent or less natural fruit juice or natural vegetable juice, and all other drinks and beverages commonly referred to as “soda,” “soda pop,” and “soft drinks.”

(2) “Sweetened beverage” does not include any of the following:

(A) Any nonalcoholic beverage sweetened entirely with artificial sweeteners that do not add calories to the beverage.

(B) Any product sold in liquid form for consumption by infants, which is commonly referred to as “infant formula.”

(C) Any product sold in liquid form for use for weight reduction.

(D) Water, to which no natural sweeteners have been added.

(E) Any product containing milk or milk products.

(m) “Sweetened beverage manufacturer” means any person who bottles, cans, or otherwise fills bottled sweetened beverages, or imports bottled sweetened beverages.

(n) “Syrup” means the liquid mixture of ingredients used in making, or mixing, compounding sweetened beverages by mixing the syrup with water, simple syrup, ice, fruits, vegetables, fruit juice, vegetable juice, or any other product suitable to make a sweetened beverage.

32602. A tax is hereby imposed upon every sweetened beverage manufacturer or concentrate manufacturer, or other person who makes the first sale in this state of a sweetened beverage or concentrate at a rate of \$0.01 per teaspoon of sugar placed into the sweetened beverage or equivalent amount of concentrate.

32605. (a) The board shall collect the tax pursuant to the Fee Collection Procedures Law Part 30 (commencing with Section 55001) of Division 2 of the Revenue and Taxation Code. For purposes of administration of the tax pursuant to this part, references in the Fee Collection Procedures Law to “feepayer” and “fee” shall include “taxpayer” and “tax.”

(b) The tax imposed by this part shall be due and payable to the board quarterly on or before the last day of the month next succeeding each quarterly period.

(c) The board may adopt rules and regulations for the proper administration of this tax.

1     32606. There is hereby created a trust fund in the State Treasury  
2     called the Children's Health Promotion Fund. The Children's  
3     Health Promotion Fund shall consist of moneys collected pursuant  
4     to the taxes imposed by this part. All costs to implement this part  
5     shall be paid from moneys deposited in the Children's Health  
6     Promotion Fund. All revenue to the state derived from the tax on  
7     sweetened beverages pursuant to this part, shall be deposited into  
8     this fund.

9     32607. (a) All moneys in the Children's Health Promotion  
10    Fund shall, upon appropriation by the Legislature, be allocated for  
11    the purposes of statewide childhood obesity prevention activities  
12    and programs.

13    (b) The State Department of Public Health shall adopt rules and  
14    regulations, and provide procedural measures to implement this  
15    section.

16    SEC. 3. This bill would take effect immediately as a tax levy,  
17    but its operative date would depend on its effective date.